

Housing Rights **ADVOCATE**

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Accessibility: Fractions of Inches Matters

Almost half (44 percent) of the fair housing complaints investigated annually by the Department of Housing and Urban Development are related to disability.

To ensure better compliance with the seven design and construction accessibility requirements of the Fair Housing Act, Jack Catlin, a partner in Chicago-based LCM Architects, spoke to a capacity crowd of 111 architects, developers, property managers, and disability rights advocates on April 23 in Austin. The free seminar was sponsored by HUD and the City of Austin Equal Employment/Fair Housing Office with support from the Austin Tenants' Council and Texas Apartment Association.

Catlin, who has more than 20 years of personal and professional experience with disability related issues, emphasized that the easiest and least expensive way

to meet the Fair Housing Act's minimal requirements is by paying attention to details during the earliest phases of a project. Consider construction tolerances in building plans and go beyond the minimum but less than the maximum specifications.

"Accessibility is measured in inches, and fractions of inches matter," Catlin asserted. Even small deviations from the requirements can make a unit completely unusable or create risk of injury to people trying to enter or use the unit. A ramp that is too steep or is sloped incorrectly, for example, can prevent a person in a wheelchair from using it or even create a situation where a wheelchair user tips over while using the ramp.

Have technical questions? Call the Fair Housing Accessibility FIRST's Design and Construction Resource Center at 888-341-7781 or submit questions online at www.fairhousingfirst.org/support.html.

South by Superlative Work

Six students from the Association for Public Interest Law at Rutgers School of Law in Camden, NJ, spent their spring break volunteering with the ATC Fair Housing Program. Their assistance was invaluable. The students participated in two special fair housing testing projects and prepared legal memoranda to support our clients' pending fair housing complaints. Said Rutgers law student Amanda Harber, "Learning about what ATC does for tenants has refreshed and re-inspired my love for public interest law."



Left to right: Rutgers law students Shannon Troutman; Amanda Harber; Katherine Stark, ATC executive director; Chris Kurek; Chris Markos; Melissa Osorio; Melissa Briggs; and Morgan Morrison, ATC fair housing testing coordinator.

FH Case Updates

In all settled cases reported here, the respondent, unless otherwise noted, denies the allegations of discrimination made by the complainant and the parties have agreed to resolve the case prior to a trial on the merits.

Callie Wilson v. Elm Ridge Apartments

In October 2008, Callie Wilson and his wife, Dathine Banks, moved to Elm Ridge Apartments. The couple is elderly and disabled. For two months, they struggled getting into and out of their bathtub.

After hearing about the Austin Tenants' Council from friends, Wilson called the ATC telephone counseling line. Fair housing program specialist Lucia Salinas helped Wilson make a Request for Reasonable Accommodation, asking the manager to install grab bars in the couple's bathroom.

Under the Fair Housing Act, the installation of grab bars is considered a reasonable modification — a structural change that allows physical access to a person with a disability. Typically, the tenant is responsible for paying the cost of a modification. However, because Elm Ridge receives federal financial assistance, Section 504 of the Rehabilitation Act of 1973 applies in addition to the FHA. Under Section 504, structural changes needed by a resident

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with a disability are considered *reasonable accommodations*. They must be paid for by the housing provider unless providing them would be an undue financial and administrative burden or a fundamental alteration of the program or unless the housing provider can accommodate the individual's needs through other means.

The property manager quickly approved the request and contacted the City of Austin's Neighborhood Housing and Community Development to secure a grant for the grab bar installation.

Ebony Edwards v. Trestles of Austin

In February, Ebony Edwards put down a \$200 security deposit for an apartment at the Trestles of Austin. Four days later, she was hospitalized due to pregnancy complications. Edwards learned that she'd probably have to stay in the hospital until her baby was born, which was several months away. Even though Edwards could not move into the apartment due to her sudden disability, the manager refused to return the deposit.

A disability can be temporary or permanent. Individuals with temporary disabilities are protected against discrimination in the same way as are people who have permanent disabilities.

ATC fair housing specialist Lucia Salinas helped Edwards make a Request for Reasonable Accommodation, asking the manager to reimburse the deposit. The manager promptly returned Edwards' money.

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Lavon Jones v. Malibu Apartments

At his doctor's suggestion, Lavon Jones adopted a service animal to assist with daily activities and provide emotional support. Jones, who is disabled, did not immediately inform his apartment complex about the dog. So when the property manager saw the animal, she gave Jones a lease violation and told him that he needed to get rid of his dog or pay a \$350 pet deposit.

Under the Fair Housing Act, a service animal is not a "pet" but is considered an assistive aid such as a wheelchair required for disability. Accordingly, a landlord may not charge a pet deposit for a service animal. Jones, unaware of his rights, paid the deposit.

Later, Jones contacted ATC. Fair housing specialist Lucia Salinas first helped Jones make a Request for Reasonable Accommodation, asking the manager to reimburse the wrongfully charged pet deposit. After the manager denied the request, Salinas helped Jones file a fair housing complaint. The City of Austin Equal Employment/Fair Housing Office successfully negotiated a conciliation agreement where Malibu Apartments reimbursed Jones for the \$350 pet deposit he had paid.

To learn more about fair housing laws, contact ATC at 512-474-1961.

Landlords, Don't Try This at Home

After David Rogers retired from military service last December, he, his wife, Alice, and their two children moved into a rental house in New Braunfels. The Rogerses and their landlord decided to start a business together. But a dispute over wages and rent led the landlord to take illegal steps to remove the family from the house.

First, the landlord disconnected the water service. A landlord may shut off any utility to carry out repairs or construction or in an emergency. But a landlord may never shut off water, wastewater, or gas because the tenant is delinquent with a rent or utility payment. ATC housing specialist Cruz Garcia contacted the landlord to inform her of the law. After speaking with Garcia, the landlord agreed to allow the Rogerses to restore the utilities in their name.

Since the utility shut off did not get rid of the Rogerses, the landlord decided a day later to remove all exterior and interior doors from the house. The Texas Property Code clearly prohibits such "self-help evictions." Civil penalties include one month's rent plus \$1,000, actual damages, court costs, and reasonable attorney's fees less any delinquent rent or other sums for which the tenant is liable to the landlord.

ATC housing specialist Elizabeth Reekers contacted the landlord this time. The landlord argued that she had to remove the doors to make repairs, which might take a week to complete. In situations where a door must be removed for a bona fide reason, the Texas Property Code clearly states, "The repair or replacement must be promptly performed." Finally, the landlord agreed to reinstall the doors at the house.

"I couldn't have gotten any faster help," Alice Rogers says. "Thank you for everything you've done for us."

ATC Thanks Lola Wright Foundation

The Lola Wright Foundation generously granted ATC \$5,270 to purchase a new telephone system for its programs. An update was sorely needed — the old system was a dozen years old and was being pushed beyond its capacity. ATC's free telephone counseling line (474-1961) serves approximately 13,000 clients annually. Trained housing counselors provide education and information regarding residential tenant-landlord disputes. When appropriate, callers are referred for in-house consultations, repair mediations, and fair housing counseling.

Actualización de Casos de Vivienda Justa

En todo caso resuelto reportado aquí, el demandado, a menos se especifique de otra manera, negó la denuncia de discriminación hecha por el demandante, y las partes aceptaron resolver el caso antes del juicio en base a los hechos.

Callie Wilson v. Apartamentos Elm Ridge

En Octubre de 2008, Callie Wilson y su esposa Dathine Banks fueron a vivir a los Apartamentos Elm Ridge. La pareja es anciana y discapacitada. Durante dos meses vivieron con dificultades para entrar y salir de la tina.

Al enterarse por amigos de la existencia del Consejo de Inquilinos de Austin (ATC), Wilson llamó al teléfono de asesoría de ATC. Lucia Salinas, especialista del programa de vivienda justa, ayudó a Wilson a hacer una Solicitud de Adaptación Razonable, pidiendo al administrador de los apartamentos que instale barras de sostén en el baño de la pareja.

Bajo el Acta de Vivienda Justa, la instalación de barras de sostén es considerada una modificación razonable — un cambio estructural que permite el acceso físico a una persona con discapacidad. Generalmente, el inquilino es responsable de pagar por la modificación. Sin embargo, como Elm Ridge recibe asistencia financiera federal, se aplica la Sección 504 del Acta de Rehabilitación de 1973 además de la FHA.

Bajo la Sección 504, los cambios estructurales necesarios para un residente con discapacidad son considerados adaptaciones razonables. Deben ser pagados por el dueño de la vivienda a menos que el hacerlo signifique una carga financiera y administrativa excesiva o una alteración fundamental del programa, o si el

proveedor de la vivienda puede atender las necesidades de la persona mediante otros medios.

El administrador de la propiedad aprobó rápidamente el pedido y se comunicó con Viviendas Vecinales y Desarrollo Comunitario de la Ciudad de Austin para obtener un subsidio para la instalación de la barra de sostén.

Ebony Edwards v. Trestles of Austin

En febrero, Ebony Edwards entregó un seguro de depósito de \$200 para un apartamento en los Trestles of Austin. Cuatro días después, ella fue hospitalizada por complicaciones en su embarazo. Edwards fue informada de que probablemente tendría que permanecer en el hospital hasta el nacimiento de su hijo, varios meses más tarde. Aunque Edwards no podría mudarse al apartamento debido a su súbita discapacidad, el administrador se negó a devolverle el depósito.

Una discapacidad puede ser temporal o permanente. Las personas con discapacidad temporal están protegidas contra discriminación de igual manera que lo están las personas con discapacidad permanente.

Lucia Salinas, especialista en vivienda justa de ATC, ayudó a Edwards a hacer una Solicitud de Adaptación Razonable, pidiendo al administrador el reembolso del depósito. El administrador devolvió rápidamente el dinero a Edwards.

Para más información sobre leyes de vivienda justa, comuníquese con ATC. Consejeros contestan preguntas acerca de inquilinos-propietarios y hacen referencias necesarias. Llame al 512-474-1961.

Propietarios: No Intenten Esto en Casa

Cuando David Rogers se retiró del servicio militar el pasado diciembre, él con su esposa Alice y sus dos hijos rentaron una casa en New Braunfels. Una disputa sobre la renta llevaron a que la propietaria tomara acciones ilegales para sacar a la familia de la casa.

Primero, la propietaria desconectó el servicio de agua. Un propietario puede apagar algún servicio para hacer reparaciones o construcción o por alguna emergencia. Pero un propietario no puede desconectar el agua, cloacas o gas porque el inquilino debe renta o pago de servicios. Cruz García, especialista en vivienda de ATC, se comunicó con la propietaria para informarle de la ley.

Como la desconexión de servicios no hizo que los Rogers se fueran, la propietaria decidió un día después quitar todas las puertas exteriores e interiores de la casa. El Código de la Propiedad de Texas prohíbe claramente tales “desalojos personales.” Las penas civiles incluyen un mes de renta más \$1,000, el costo de los daños, gastos judiciales, y honorarios razonables de abogado menos toda renta morosa u otra suma adeuda por el inquilino al propietario.

Elizabeth Reekers, especialista en vivienda de ATC, se comunicó esta vez con la propietaria. Esta respondió que tuvo que quitar las puertas para hacer reparaciones, las que podrían llevar una semana. En situaciones en que debe sacarse una puerta por una razón de buena fe, el Código de la Propiedad de Texas dispone claramente: “La reparación o reemplazo debe ser ejecutada prontamente.” Finalmente, la propietaria aceptó reinstalar las puertas en la casa.

“No podría haber recibido una ayuda más rápida,” dijo Alice Rogers. “Gracias por todo lo que han hecho por nosotros.”

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The Austin Tenants' Council, as a subrecipient of the City of Austin, is committed to compliance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended. Reasonable modifications and equal access to communications will be provided upon request. Please call 512-474-1961 (voice) or Relay Texas at 1-800-735-2989 (TDD) for assistance. The City does not discriminate on the basis of disability in the admission or access to, or treatment or employment in its programs and activities. Dolores Gonzalez has been designated as the City's Section 504/ADA Coordinator. Her office is located at 505 Barton Springs Road, Suite 600. If you have any questions or complaints regarding your Section 504/ADA rights, please call the Section 504/ADA Coordinator at 974-3256 (voice) or 974-2445 (TTY). This publication is available in alternative formats. Please call 512-474-1961 (voice) or Relay Texas at 1-800-735-2989 (TDD) for assistance.

Fair Housing Program / Programa de Vivienda Justa This program helps any person in the Austin metropolitan area who has been discriminated against in the rental, sale, financing, or appraisal of housing. FHP investigates complaints and coordinates legal services to assist victims of discrimination when their rights under state and federal fair housing laws have been violated. Este programa ayuda a cualquier persona en el area metropolitana de Austin que se ha enfrentado con discriminación en la renta, compra, financiamiento, o evaluación de vivienda. El FHP investiga las quejas y coordina servicios legales para las victimas de discriminación cuando sus derechos están violados bajo las leyes estatales y federales de vivienda justa. Call / llame al 474-7007.

Telephone Counseling / Consejos por Telefono Trained counselors answer tenant-landlord questions and make appropriate referrals. However, ATC offers no legal advice. Consejeros contestan preguntas acerca de inquilinos-propietarios y hacen referencias necesarias. Sin embargo, ATC no ofrece consejos legales. Call / llame al 474-1961.

In-House Counseling / Consejos en la Oficina Counseling information and materials are provided to clients in need of more in-depth assistance. Se provee información y materiales a los clientes que necesitan mayor información. Call for an appointment / llame para una cita al 474-7007.

Crisis Intervention / Intervencion Crisis Counselors mediate on behalf of tenants to resolve emergencies that threaten their housing. Consejeros median en nombre del inquilino a resolver una emergencia que amenass su vivienda. Call / llame al 474-1961.

Rental Repair Assistance / Ayuda con Reparaciones en su Vivenda The Renters' Rights Assistance Program helps low-income renters enforce their rights for repairs through advocacy and mediation. El Programa de Asistencia con los Derechos de Inquilinos ayuda a los inquilinos de bajo ingreso da fuerza a sus derechos para reparaciones por medio de negociación y mediación. Call / llame al 474-7007.

Lease Forms / Contratos ATC sells lease packets and brochures describing landlord and tenant rights and responsibilities to landlords for a small fee. ATC vende paquetes de contratos y folletos, por una cuota nominal, describiendo los derechos y las responsabilidades del propietario y del inquilino. Call for more information / llame para mayor información al 474-7007.

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